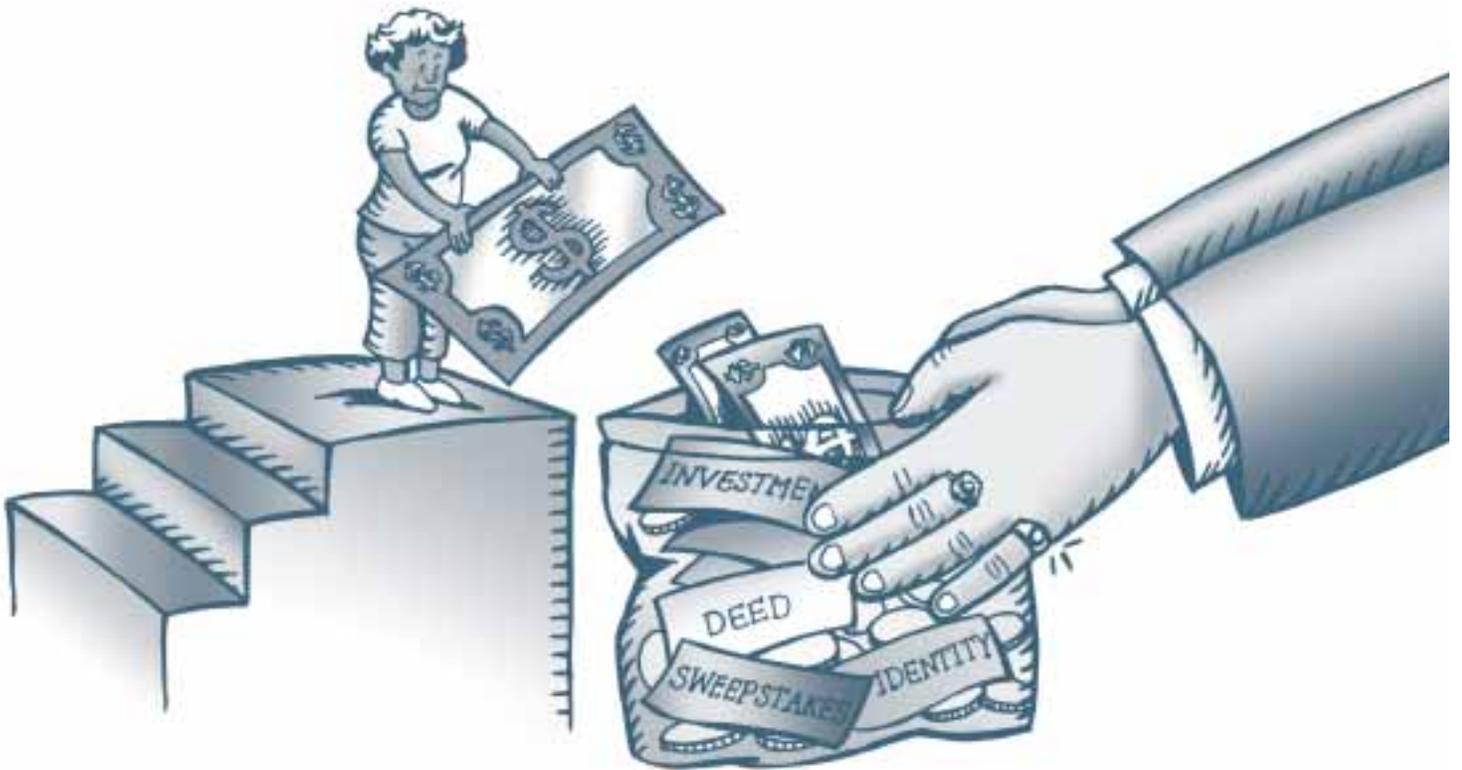


Part B Financial Elder Abuse



What is Financial Elder Abuse?

Financial abuse is the theft or embezzlement of money or any other property from an elder. It can be as simple as taking money from a wallet and as complex as manipulating a victim into turning over property to an abuser. This form of abuse can be devastating because an elder victim's life savings can disappear in the blink of an eye, leaving them unable to provide for their needs and afraid of what an uncertain tomorrow will bring.

Recognizing the Warning Signs

The existence of any one or more of these indicators does not necessarily mean that abuse has occurred. Instead, treat them as signs that diligent attention or investigation is needed.

Behavioral warning signs:

- Withdrawn
- Confused or extremely forgetful
- Depressed
- Helpless or angry
- Hesitant to talk freely
- Frightened
- Secretive

Isolation warning signs:

- Elder is isolated or lonely with no visitors or relatives. Family members or caregiver isolate the individual, restricting the person's contact with others.
- Elder is not given the opportunity to speak freely or have contact with others without the caregiver being present.

Other warning signs include:

- Unusual bank account activity, such as withdrawals from automatic teller machines when the individual cannot get to the bank.
- Signatures on checks and other documents that do not resemble the elder's signature.
- Checks or other documents signed when the elder cannot write or understand what he or she is signing.
- Lack of personal amenities – appropriate clothing and grooming items.
- Numerous unpaid bills when someone else has been designated to pay the bills.
- Change in spending patterns, such as buying items he or she doesn't need and can't use.
- The appearance of a stranger who begins a new close relationship and offers to manage the elder's finances and assets.



While financial elder abuse can take many forms, the most widespread abuses include telemarketing fraud, identity theft, predatory lending and home improvement and estate planning scams.

The following seeks to familiarize you with how these crimes commonly are perpetrated and what you can do to protect yourself and your loved ones.

Telemarketing fraud:

Americans lose an estimated \$40 billion each year due to the fraudulent sales of goods and services over the telephone. AARP has found that 56% of those called by telemarketers are aged 50 or older.

It can be extremely difficult to tell if a telemarketing call is legitimate. This is especially true if you are being pressured to make an instant decision; for example, to send money right away in order to claim a prize that has been won. Scams can range from prize offers to travel packages to phony charities.

Be wary of telemarketing sales pitches such as these:

- “You have won a lottery, but in order to claim the money, you must send a payment to pay the taxes on the money you have won.”
- “We can give you a great home loan at a great price, regardless of your credit.”
- “We are offering you a fantastic buy on your favorite magazines; this is the last day and we must receive your money by midnight to guarantee this offer.”



Telemarketing Do's and Don'ts Include:

DO:

- Ask telemarketers for their company's name and address.
- Ask the caller to send you written material to study before you make a purchase.
- Talk to family and friends; get advice from someone you trust before you make any large purchase or investment.
- Request that your phone number be removed from the telemarketer's list.

DON'T:

- Pay for any prize or send money to improve your chances to win or receive a prize.
- Give any caller your credit card number or any other form of personal identification.

Remember:

It is very difficult to tell if a telemarketing call is legitimate. Be cautious and do not let any caller intimidate you.

Don't be afraid to hang up!

"DO NOT CALL" LIST

Beginning April 1, 2003, the California Department of Justice plans to maintain a "do not call" list, containing the telephone numbers and zip codes of residential or wireless telephone customers who do not want to receive telephone solicitations. Telephone solicitors will be prohibited from calling subscribers whose numbers are placed on the "do not call" list.

Individuals will be able to place their names on the "do not call" list using the Internet or by calling a toll-free telephone number. Please visit the California Department of Justice's web site at www.ag.ca.gov/donotcall to check on when this service becomes available.



Identity theft:

Identity theft is a frightening and fast-growing crime. There are more than 500,000 new victims each year. It is an easy crime to commit because every identifying number an individual possesses – Social Security, credit card, driver's license, telephone – is a key that can unlock some storage of money or goods.

Identity thieves can obtain your personal information easily, not only by stealing your wallet, but also by taking mail from your mailbox, going through your trash for discarded receipts and bills or asking for it over the phone on some pretext. The identity thief can also get your personal information by watching your transactions at automated teller machines and phone booths to capture your personal identification number. Social Security numbers can even be bought on the Internet for as little as \$20 each!

How to protect yourself from identity theft:

- Dispose of papers with personal information by tearing up charge receipts, bank statements, expired credit cards or offers for new credit cards.
- Never give out your Social Security number unless you have initiated the contact and you are familiar with the institution. Do not have your Social Security number printed on your checks.
- Do not give any of your personal account numbers over the phone unless you have placed the call and know the individual with whom you are speaking.





Home improvement scams:

Home improvement scams are often committed by groups of individuals who go door-to-door in an effort to sell “home improvement” services. Often, they come into a neighborhood and offer to repair a driveway or re-shingle a roof which they claim is in immediate need of repair. They promise to do the work for a very low fee if the individual agrees to have the work done immediately. When the victim agrees, he or she discovers the fee is much higher after the work has been completed or that the work was done using inferior materials. Quite often the scam artist will do the work for a low fee for one resident in a neighborhood to create a referral in the area to draw in other victims.

It is important to remember that often these individuals can do more than overcharge or perform shoddy work. Sometimes one individual will work outside and another may go into the house for a drink of water and then steal valuables. Far too often the victim does not know the items are missing until the criminals are gone.

Home Improvement Do's and Don'ts Include:

DO:

- Get other bids from established businesses; if the deal is too good to be true, it may very well be a scam.
- Be suspicious if someone comes to your door or calls you with an offer to do a home improvement.
- Obtain the contractor's license number and contact the Contractors State License Board, Better Business Bureau or Chamber of Commerce to determine that the person offering to perform the home improvement is licensed and reputable.
- Insist on and check out referrals.

DON'T:

- Rush. Rarely is there a legitimate reason for an offer that is good "for today only." Be very suspicious.
- Accept work from an unlicensed contractor – EVER.
- Allow work to be done without a written contract that, among other considerations, specifies materials used, a completion date and a fair payment schedule that pays for work as it is completed.
- Pay a down payment before commencement of work which exceeds one thousand dollars (\$1,000) or 10 percent of the contract price for home improvements, whichever is less.

Predatory lending:

More than 80% of Americans aged 50 and older are homeowners. Elders are often the target of unscrupulous lenders who pressure them into high-interest loans they may not be able to repay. Older homeowners are often persuaded to borrow money through home equity loans for home repairs, debt consolidation or to pay health care costs. These loans are sold as a "miracle financial cure," and homeowners are devastated to find out they cannot afford to pay off the loans and, as a result, may lose their home. Often these loans are packed with excessive fees, costly credit insurance, pre-payment penalties and balloon payments.

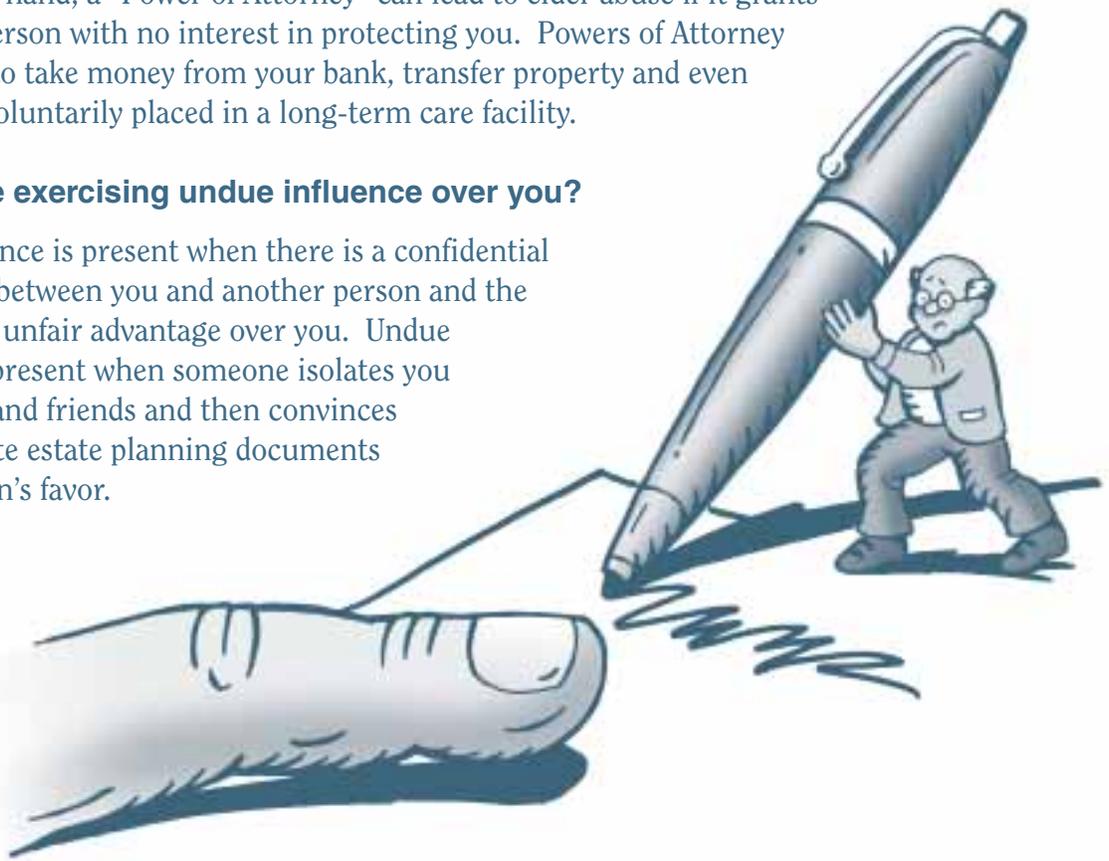
Estate planning hazards:

“Estate planning” is the ordering of one’s affairs so that personal and financial matters will be taken care of upon death or incapacitation. Estate planning devices may include wills, trusts, powers of attorney, advance health care directives and joint tenancies.

People can take advantage of the power given to them in estate planning devices. For example, a “Power of Attorney” works well if it contains clear directions that reflect your wishes and vests your care and well-being with a reliable individual. On the other hand, a “Power of Attorney” can lead to elder abuse if it grants power to a person with no interest in protecting you. Powers of Attorney can be used to take money from your bank, transfer property and even have you involuntarily placed in a long-term care facility.

Is someone exercising undue influence over you?

Undue influence is present when there is a confidential relationship between you and another person and the person gains unfair advantage over you. Undue influence is present when someone isolates you from family and friends and then convinces you to execute estate planning documents in that person’s favor.



Can a conflict of interest occur between you, the person preparing your estate plan and the person benefitting from the arrangements?

A conflict of interest may occur when a person who is going to benefit from your estate planning, such as a beneficiary to your will, arranges to have you meet with a financial planner or attorney, directs the professional advisor as to what is to be done and/or pays the professional advisor's fees.

Who might financially abuse you?

Conservators, caregivers, agents acting under durable powers of attorney, trustees, representative payees, financial planners, attorneys, family members and friends can be potential financial abusers.

Are there remedies for financial abuse?

The best remedy is to prevent the abuse by carefully choosing trustworthy people to act as agents, successor trustees or conservators when preparing estate planning documents. However, if you believe that a person already designated is not acting in your best interests, you can amend or end a power of attorney or revocable trust. You can also demand an accounting. If there is evidence of mismanagement, the agent also can be required to make restitution to you. Victims can seek assistance from law enforcement or file a civil lawsuit. Punitive damages may be imposed if there is evidence of oppression, fraud or malice.

REPORTING ELDER ABUSE:

- Any person who suspects that abuse of an elder has occurred should report it. When in doubt, always err on the side of caution and report.
- Abuse can continue and often escalates if there is no intervention. Known or suspected cases of abuse should be reported to the appropriate agencies or to local law enforcement.
- Intervention can often save the assets, health, dignity or even the life of an elder.

HOW TO REPORT ELDER ABUSE:

- If a known or suspected instance of elder abuse has occurred in a long-term care facility, the report should be made to the local Long-Term Care Ombudsman, the local law enforcement agency or the Bureau of Medi-Cal Fraud and Elder Abuse.*
- If abuse has occurred anywhere other than in a facility, reports should be made to the local county Adult Protective Services agency or to the local law enforcement agency.*
- The reporting person is protected from both criminal and civil liability.

**See chapter 2 (starting on page 20) for more details on how to file a report and how to contact your nearest reporting agency.*